

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RONALD C. SILVA,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

Case No. 3:23-cv-00419-LRH-CSD
ORDER DISMISSING AND CLOSING
CASE

Plaintiff Ronald Silva brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). Because Silva is no longer incarcerated, the Court gave him until March 8, 2024, to file his updated address and either pay the full \$402 filing fee or file an application to proceed *in forma pauperis* for non-prisoners. (ECF No. 5). That deadline expired without an updated address and either payment of the filing fee or a new application to proceed *in forma pauperis* from Silva, and his mail from the Court is being returned as undeliverable. (See ECF No. 6).

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of

1 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
2 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
3 *Malone*, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation
5 and the Court's interest in managing its docket, weigh in favor of dismissal of Silva's
6 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
7 because a presumption of injury arises from the occurrence of unreasonable delay in filing
8 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
9 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
10 cases on their merits—is greatly outweighed by the factors favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can
12 be used to correct the party's failure that brought about the Court's need to consider
13 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
14 that considering less drastic alternatives *before* the party has disobeyed a court order
15 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
16 Cir. 2002). Courts "need not exhaust every sanction short of dismissal before finally
17 dismissing a case, but must explore possible and meaningful alternatives." *Henderson v.*
18 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically
19 proceed without the ability for the Court and the defendants to send Silva case-related
20 documents, filings, and orders, the only alternative is to enter a second order setting
21 another deadline. But without an updated address, the likelihood that the second order
22 would even reach Silva is low, so issuing a second order will only delay the inevitable and
23 further squander the Court's finite resources. Setting another deadline is not a meaningful
24 alternative given these circumstances. So the fifth factor favors dismissal.

25 **II. CONCLUSION**

26 Having thoroughly considered these dismissal factors, the Court finds that they
27 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
28 prejudice based on Ronald Silva's failure to file an updated address and either pay the

1 filing fee or apply for *in forma pauperis* status as a non-prisoner in compliance with this
2 Court's February 7, 2024, order. The Clerk of Court is directed to enter judgment
3 accordingly and close this case. No other documents may be filed in this now-closed
4 case. If Ronald Silva wishes to pursue his claims, he must file a complaint in a new case
5 and provide the Court with his current address and either pay the filing fee or properly
6 apply for pauper status.

7 DATED this 22nd day of March, 2024.

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11 LARRY R. HICKS
12 UNITED STATES DISTRICT JUDGE
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